

Sales to a Federal corporation created by Congress are not taxable under the Electricity Excise Tax Law when the Federal statute creating the corporation exempts it from state-imposed taxes. See 86 Ill. Adm. Code 511.150(b). (This is a GIL.)

June 3, 2008

Dear Xxxxx:

This letter is in response to your letter dated December 10, 2007, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at [www.tax.illinois.gov](http://www.tax.illinois.gov) to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter, you have stated and made inquiry as follows:

Pursuant to its federal charter, the ABC is exempt from all state and local taxes associated with the use of electricity. Our Illinois vendor is not comfortable with our exemption based on the documentation we have provided them. Their reservations seemed to be based on a letter from the Illinois Department of Revenue that addresses exemption from electricity taxes for organizations which have been granted sales tax exemptions by the state, a copy of which is enclosed. ABC, however, has been granted a broader exemption by the Federal government which includes all state and local taxes, with the exception of real property taxes. We are providing you with documentation which supports our exemption and ask that you provide us with a letter that we can forward to VENDOR to resolve the issue of our exempt status.

ABC is a government-sponsored-enterprise. The Corporation's charter is set out in the United States Code at 12 U.S.C. 1451-1459, (the 'Act'). The basis for the state and local tax exemption is the language contained in Sec. 303(e) which states that the Corporation is exempt 'from all taxation now or hereafter imposed...by any state, county, municipality or local taxing authority...' except for taxes on real property. This language appears on page 10 of the enclosed portion of the Act. Also enclosed is a copy of an exemption letter from the State of Illinois acknowledging ABC's exempt status.

PERSON's letter states that many nonprofit organizations are not entitled to an exemption from electricity taxes. The difference between these organizations and ABC is that the Federal government granted ABC an exemption from all state and local taxes except for real property taxes, while the other organizations mentioned in Mr. PERSON's letter have only been granted exemption from sales and use taxes by the state of Illinois.

Please contact me after you have had a chance to review this documentation.

#### **DEPARTMENT'S RESPONSE:**

The Electricity Excise Tax Law (35 ILCS 640/1 *et seq.*) imposes a tax upon the privilege of using in this State electricity purchased for use or consumption and not for resale, other than by municipal corporations owning and operating a local transportation system for public service. The tax is collected from the user by the user's delivering supplier.

Section 2-4(c) of the Electricity Excise Tax Law states, in part: "The tax imposed by this Section 2-4 is not imposed . . . with respect to any transaction in interstate commerce, or otherwise, to the extent to which such transaction may not, under the Constitution and statutes of the United States, be made the subject of taxation by this State." See also 86 Ill. Adm. Code 511.150(b). The Federal Home Loan Mortgage Corporation Act enacted by Congress states that, except for real estate taxes, "[t]he Corporation, including its franchise, activities, capital, reserves, surplus and income shall be exempt from all taxation now or hereinafter imposed by any . . . State, county, municipality or local taxing authority . . . ." 12 U.S.C. § 1452(e). Based on the language in the Act, we believe that electricity sales made to ABC are not subject to the tax imposed by the Electricity Excise Tax Law.

I hope this information is helpful. If you require additional information, please visit our website at [www.tax.illinois.gov](http://www.tax.illinois.gov) or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Very truly yours,

Richard S. Wolters  
Associate Counsel

RSW:msk